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February 16, 1999

Via Federal Express

Magalie Roman Salas, Secretary
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The Portals
445 Twelfth Street, S.W.
Washington, D.C. 20554

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Re: CC Docket No. 96-98
NSD File No. 97-42

Dear Ms. Salas:

Enclosed for filing please find an original and five copies of the Reply Comments in Support of the Maine Public Utilities Commission's Motion for Reconsideration. As you will note, these comments are being filed one day late due to difficulties we encountered with the FCC's electronic filing system. We attempted to file our comments electronically for over two hours this afternoon. Your office should have received at least four cover sheets from our repeated failed attempts to file electronically. We tried to contact personnel at the ECFS help desk but only were able to reach a voicemail system. We spoke with several persons in your office regarding the difficulties we experienced trying to upload our document into your system. We were told that the main link was down but experienced the same problems with the alternate link. I respectfully request that you accept the MPUC's filing.

Respectfully submitted,

Trina M. Bragdon
Trina M. Bragdon

cc: Service list

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**Before the
Federal Communications Commission
Washington, D.C. 20554**

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In the Matter of)	
)	
Petition for Declaratory Ruling and)	
Request for Expedited Action on)	NSD File No. L-97-42
July 15, 1997 Order of the Pennsylvania)	
Public Utility Commission Regarding)	
Area Codes 412, 610, 215 and 717)	
)	
)	
Implementation of the Local Competition)	
Provisions of the Telecommunications Act)	CC Docket No. 96-98
of 1996)	
)	

**REPLY COMMENTS IN SUPPORT OF THE
MAINE PUBLIC UTILITIES
COMMISSION'S MOTION FOR RECONSIDERATION**

The Maine Public Utilities Commission (MPUC) submits these Reply Comments in support of its Motion for Reconsideration of the Commission's September 28, 1998 Memorandum Opinion and Order and Order on Reconsideration (Order) in the above-captioned matter.

In essence, the parties opposing the MPUC's Motion (Opposing Parties)¹ argue that the only way out of the current crisis is to do business as usual by continuing to assign new area codes as often as "needed" by carriers, regardless of the impact on the public, until a solution is reached at the national level. The Commission should reject these arguments for allowing the current wasteful practices to continue. These parties would perpetuate a system where numbering resources are squandered and hoarded by carriers who place their individual business agendas above the need to participate in the development and implementation of technology and

¹ AT&T, Bell Atlantic, Bell Atlantic Mobile, Spring PCS, Nextel, and Vanguard.

programs which will allow for the more efficient utilization of numbering resources. The industry should not be allowed to continue to subject the public to unnecessary and costly area code changes in the name of national uniformity when it is unable to agree at the national level upon the implementation of technology and programs which will allow for the more efficient assignment and utilization of numbers. Given the pace of area code creation, by the time the industry reaches an agreement, any benefits from such an agreement will be rendered meaningless. To prevent the citizens of Maine from being subjected to the costs and inconvenience of an unnecessary new area code, the MPUC should be given the authority to ration codes prior to an area code relief and order the return of improperly obtained or utilized codes.

I. MAINE IS NOT RUNNING OUT OF NUMBERS AND SHOULD NOT BE FORCED TO IMPLEMENT AN UNNECESSARY NEW AREA CODE

While the MPUC cannot speak to issues of number unavailability in other states, it can categorically state that in Maine, there is not now a shortage of individual numbers, nor will there be over the next ten years. Currently, there are approximately 516 central office (NXX) codes assigned in Maine (5,160,000 numbers), yet only 2,143,812 of the numbers are being used -- a utilization rate of less than 41%. Indeed, there are over 3 million unused numbers within currently assigned codes and over 2.7 million unused numbers in unassigned NXX codes -- a total of over 5.7 million unused numbers, five times the current population. There is *no* crisis in Maine with regard to availability of numbers. The only "crisis" is the industry's unwillingness to

rapidly implement the technology and programs needed to ensure the more efficient utilization of numbering resources, namely local number portability and thousand block pooling.²

The Opposing Parties insist that competition under the Telecommunications Act of 1996 (Act) requires that public numbering resources be immediately available at all times to any carrier that requests them. The MPUC believes that Congress intended for competition under the Act to provide direct benefit to consumers, not additional needless expense and inconvenience. The MPUC does not question the importance of bringing competition to Maine; to the contrary, we strongly support the development of a competitive telecommunications market in Maine. However, the MPUC does question the necessity of subjecting the public to the costs and inconvenience of an additional area code in the name of competition when it is clear that the technology needed to avoid a new area code is available today but is not being implemented by the industry because of individual business agendas. If the industry were truly interested in providing consumers with the benefits of competition, it would put aside individual business agendas and begin the immediate implementation of numbering efficient technology.

II. PROVIDING THE MPUC WITH AUTHORITY TO ORDER NUMBER RATIONING AND RECLAIM CODES WILL NOT ADVERSELY AFFECT THE NATIONAL NUMBERING POLICY

The Opposing Parties argue that all numbering issues, except the decision as to what type of area code relief to implement, should take place at the national level because “inconsistent state regimes for number conservation would result in significant societal and economic costs.”

² While the industry will claim that the deployment of LNP is a “separate” issue and that pooling needs to be dealt with at the national level, the FCC must make a realistic assessment of the interrelationship of these issues at both the state and federal level and either quickly take steps to get the industry moving forward on these issues or give the states the necessary authority.

AT&T at p. 5. These parties are wrong and granting the relief we seek will have the very opposite affect of avoiding unnecessary costs. Leaving all decisions to the national level in current practice means leaving it to the industry to police itself because the FCC has delegated most of its numbering authority to the North American Numbering Council (NANC) which is controlled by the industry. This is like asking the fox to guard the chicken coop and has proven to have the same consequences regarding the consumption of NXXs. The carriers have no incentive to conserve numbering resources. They have created a system premised upon an unlimited supply of numbering resources with a first come, first served philosophy which only encourages the squandering and hoarding of numbering resources. So long as state commissions continue to implement area code relief, carriers will continue to use the resources available without regard to the societal and economic costs borne by the public in making those resources available to them.

Bell Atlantic argues that state commissions should not “squander” their resources on investigating number administration and optimization because it is better handled at the national level. Given the lack of real progress at the national level and the direct impact numbering issues have on consumers, state commissions are not “squandering” their resources by trying to move the industry forward on these important issues. Indeed, the support for our position expressed by both of Maine’s United States Senators and our Governor’s reference to this problem in his recent inaugural address leave no doubt that MPUC action in this area would hardly be viewed as squandering states resources by the people of Maine.

The Opposing Parties also argue that states should not be given authority to impose number conservation measures, including rationing, until after an area code relief decision has been made because such varying regimes “pose a serious threat to the integrity of the North

American Numbering Plan (NANP).” AT&T at p. 5. The Opposing Parties fail to explain, just as the Commission failed to explain in its Order, why there is less of a problem with a lack of uniformity after an area code relief decision is made than there would be before such a decision. A voluntary pool will be as consistent (or inconsistent) with the NANP before a state area code relief decision as it will be after such a decision. Further, to suggest that states would order the implementation of measures which would threaten the viability of the NANP is insulting; states want to protect consumers, not subject them to substandard service.

III. STATE AUTHORITY TO RECLAIM CODES WILL NOT ADVERSELY IMPACT CARRIERS WHO COMPLY WITH THE GUIDELINES

Most of the Opposing Parties³ argue that states should not be given authority to reclaim codes which have been improperly obtained or utilized⁴ and that such matters should be resolved at the national level. Nextel goes so far as to claim that state reclamation of codes is “antithetical” to the goals of the national numbering policy. It is very difficult to understand how requiring carriers to comply with the Central Office Code Administration Guidelines that they themselves drafted (in the name of national uniformity) is “antithetical” to the national numbering policy.⁵ Carriers who abide by the Guidelines will only be positively affected; state reclamation of improperly obtained or utilized codes will result in additional codes being

³ Bell Atlantic supports the MPUC’s request for authority to reclaim codes which are being used to serve areas in which the carrier is not authorized to serve.

⁴ Improperly obtained codes would include those obtained prior to state certification to provide service in the requested rate center or those obtained through falsified certifications to NANPA. Improperly utilized codes would include codes used to provide services which have not been authorized by the state commission.

⁵ Bell Atlantic Mobile argues that the Guidelines are outside the scope of these proceedings, an argument that begs the question given that the Guidelines govern the current numbering administration process and provide the carriers with access to codes.

available to other carriers. Only those carriers who abuse the Guidelines by prematurely requesting codes or by using central office codes to provide unauthorized services will be negatively impacted, a result other carriers should support.

The Commission may find it interesting that during the course of drafting these comments, the MPUC has learned that two CLECs in Maine which do not have valid interconnection agreements or approved tariffs obtained a total of 14 central office codes over the last six months, while another CLEC has applied for codes, despite the fact that it intends to operate as a reseller for the foreseeable future. This is why area codes are prematurely exhausting. This is why additional oversight is needed. This is why states must be given authority. Neither the FCC nor NANPA is in a position to uncover the information the MPUC has just uncovered. The MPUC must be allowed to act on this information immediately, it should not be forced to wait until completion of the lengthy, convoluted, and ineffective Guidelines process, by which time it may be too late to avoid implementation of a new area code.⁶

IV. MAINE SHOULD BE GIVEN THE AUTHORITY TO RATION CODES PRIOR TO MAKING A DECISION TO IMPLEMENT A NEW AREA CODE.

As stated earlier, there is not, and will not be in the near future, an actual shortage of numbers in Maine -- the problem truly lies in the inefficient administration of numbering

⁶ Contrary to Nextel's assertions, giving the MPUC authority in this situation would not be tantamount to allowing the MPUC to use central office codes as state regulatory enforcement tools. The MPUC's real interest in these cases is to conserve central office codes for the benefit of both the market and ratepayers, not to punish carriers for violations of state law. It is entirely appropriate for the MPUC to ensure that carriers operating in Maine comply with the Guidelines and with MPUC regulations and do not subject Maine consumers to an unnecessary additional area code.

resources. Bell Atlantic-Maine has stated that local number portability (LNP) will be available in Maine no later than August of this year. Once LNP is in place, it will be technically feasible to do thousand block pooling. Putting aside arguments regarding whether thousand block pooling should or should not be implemented, the technology necessary to avoid the implementation of a new area code will be in place by the end of this year.

It makes absolutely no sense to require the MPUC to decide to implement an unnecessary area code if it could avoid such action by immediately beginning a rationing program which would extend the life of the 207 area code until pooling is operational. Using very conservative dates, if a rationing program began tomorrow and ended in June of 2000, 14-16 central office codes could be allocated per month. Current industry forecasts indicate that only an average of 10 such codes per month will be needed during that time frame. Given the relatively slow rate of entry by CLECS (Maine has only one operating facilities-based CLEC), there are ample codes available for new entrants. Thus, there is no good reason for denying the MPUC the authority to begin a rationing program which will avoid the needless implementation of a new area code.

V. THE OPPOSING PARTIES' REFERENCES TO RATE CENTER CONSOLIDATION AND VOLUNTARY POOLING ARE RED HERRINGS

Many of the Opposing Parties, including wireless carriers, argue that the FCC has given states sufficient authority over number conservation issues by allowing them to engage in rate center consolidation and voluntary number pooling. These arguments are red herrings. First, as each of the carriers is well aware, rate center consolidation is a very complex, highly political process with far-reaching effects on both carriers and consumers. While the MPUC has

investigated, and will continue to investigate this option,⁷ the economic ramifications of changing local calling areas as well as the potential for customer confusion make rate center consolidation a long-term goal and not a short-term fix.

Second, it is ironic that the same wireless carriers who successfully lobbied the FCC to extend the deadline for LNP capability to 2002, now suggest to state commissions that voluntary pooling is a viable conservation measure. First, wireless carriers know that they will not have to participate in the pool. Second, these carriers understand that the industry no longer volunteers to participate in pools now that the FCC has denied state commissions the authority to order participation.

The FCC must see through these hollow arguments and recognize that states must be given the authority to order number conservation measures which will actually conserve meaningful numbers of NXX codes. Relying upon voluntary methods and efforts will not provide the necessary relief. Carriers will pledge to do the right thing until it conflicts with their own self interest and then they will use arguments of free competition and national uniformity to avoid their responsibilities. The FCC should not let this continue. The FCC should provide the MPUC and other states with the authority to take the measures necessary to protect consumers from the unnecessary implementation of new area codes.

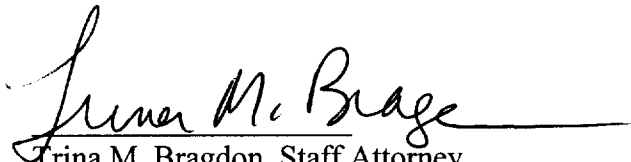
⁷ In October of 1998, the MPUC asked the Industry Task Force to explore whether rate center consolidation was a viable conservation measure. Recently, the Task Force reported that only nine codes could be immediately made available by consolidating rate centers without impact on local calling areas. In order to save additional codes, a much more comprehensive investigation will be needed. Accordingly, the MPUC plans to open an inquiry into rate center consolidation and inconsistent rate center issues in the near future.

V. CONCLUSION

For the reasons described above, the MPUC respectfully requests that the Commission strike that portion of its Order which restricts states from imposing number conservation methods until after a final decision is made regarding the implementation of a new area code and that the Commission specifically delegate the authority for states to reclaim improperly obtained or used codes.

Respectfully,

MAINE PUBLIC UTILITIES COMMISSION

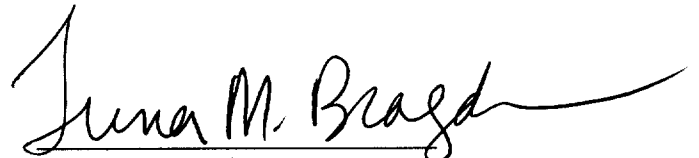
A handwritten signature in cursive script, reading "Trina M. Bragdon", followed by a horizontal line.

Trina M. Bragdon, Staff Attorney
Maine Public Utilities Commission

Dated: February 16, 1999

CERTIFICATE OF SERVICE

I, Trina M. Bragdon, certify that these Reply Comments in Support of the
Maine Public Utilities Commission's Motion for Reconsideration were filed electronically with
the Federal Communications Commission and served via first-class mail to the
persons on the attached service list on this date.


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Dated: February 16, 1999

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